

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

JENNIFER MILLER,	)	
	)	CASE NO.: 5:20-cv-01743-JRA
	)	
Plaintiff,	)	JUDGE JOHN R. ADAMS
	)	
vs.	)	MAGISTRATE JUDGE CARMEN E.
	)	HENDERSON
	)	
MICHAEL ANDERSON, ET AL.,	)	
	)	
Defendants,	)	
	)	
FIRST ENERGY CORP.,	)	
	)	
Nominal Defendants.	)	

**NOMINAL DEFENDANT FIRSTENERGY CORP.'S  
STATUS REPORT AND MOTION TO EXTEND DEADLINE  
TO CONFIRM COMPLETION OF ITS DOCUMENT PRODUCTION  
AND ADDRESS RECENT DISCOVERY**

Nominal Defendant FirstEnergy Corp. ("FirstEnergy"), by and through undersigned counsel, hereby submits this status report and moves for a brief extension to January 31, 2022, to confirm completion of its document production to Plaintiffs and address recent discovery requests from Plaintiffs. In support of its request, FirstEnergy states as follows:

1. At the November 8, 2021, Case Management Conference, the Court ordered that paper discovery be concluded by January 17, 2022. (*See* ECF #160 at 2.) In light of the holiday, the Court adjusted this date to January 18, 2022, during the January 10, 2022, status hearing.

2. As of today, January 18, 2022, FirstEnergy has substantially completed its document production, producing over 380,000 pages of documents, in accordance with Plaintiffs' prioritization requests. Those documents include materials produced in the course of Department of Justice and Securities and Exchange Commission investigations, minutes and packets from

FirstEnergy Board of Directors' meetings, custodial emails, text messages, and other documents relating to HB6. The following chart summarizes FirstEnergy's rolling productions:

<b>Production Date</b>	<b>Bates Range</b>	<b>Pages Produced</b>
November 5, 2021	FE DERIV 0000001-FE DERIV 0175728	175,728
November 12, 2021	FE DERIV 0175729-FE DERIV 0257363	81,635
November 19, 2021	FE DERIV 0257364-FE DERIV 0288164	30,801
December 15, 2021	FE DERIV 0288165-FE DERIV 0289245	1,081
December 20, 2021	FE DERIV 0289246-FE DERIV 0290314	1,069
December 23, 2021	FE DERIV 0290315-FE DERIV 0292209	1,895
January 7, 2021	FE DERIV 0292210-FE DERIV 0298556	6,346
January 18, 2021	FE DERIV 0298556- FE DERIV 0382486	83,930
	<b>Total Pages Produced</b>	<b>382,486</b>

3. The effort FirstEnergy has undertaken to produce over 380,000 pages of documents in the last 10 weeks has been substantial. But there is some additional work that remains because of the project's pace, scope, and technical complexities, the ongoing negotiations between FirstEnergy and Plaintiffs, and the additional discovery requested by Plaintiffs within the last five weeks.

4. For these reasons, FirstEnergy needs an additional two weeks to (A) run additional searches to double check and confirm that its production is complete; (B) complete negotiation of a privilege log protocol with Plaintiffs and accordingly finish FirstEnergy's privilege review; and (C) complete negotiations with Plaintiffs and further respond as necessary to their later requested additional discovery. FirstEnergy believes it can complete these tasks and produce any additional documents by January 31, 2022.<sup>1</sup>

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<sup>1</sup> In addition to the new discovery served by Plaintiffs, Defendants Charles Jones and Michael Dowling served their first written discovery requests on FirstEnergy six days ago, on January 12, 2022. Under Rule 34, FirstEnergy's responses and objections to those requests are now due on February 11, 2022.

5. With respect to Category A, Plaintiffs served broad requests and were unwilling to compromise substantially. On December 13, 2021, after extensive negotiations, Plaintiffs and FirstEnergy reached a compromise on a protocol for FirstEnergy to review approximately 175,000 documents that hit on 176 search terms across files for 31 custodians. FirstEnergy assembled and trained a team of over 50 attorneys, which, in four weeks, completed review of those 175,000 documents, as well as other non-custodial documents, for production.

6. Due to the volume, complexity, and pace of this undertaking, and because of certain technical difficulties that FirstEnergy encountered, FirstEnergy believes it is prudent to run additional searches to ensure its production is complete. FirstEnergy believes it can complete these additional searches and produce any additional documents by January 31, 2022, which is 10 days before the first deposition that is currently set for February 10, 2022.

7. With regard to Category B, under the Court's ESI Order, FirstEnergy's privilege log is due 30 days after production. (ECF #236.) FirstEnergy believes that the parties are close to reaching an agreement on a privilege logging protocol. Plaintiffs are currently reviewing FirstEnergy's latest draft protocol, which it provided on January 13. FirstEnergy anticipates it may produce additional redacted and unredacted documents as it prepares its log.

8. With regard to Category C, during the last five weeks, Plaintiffs have made numerous additional requests of FirstEnergy. Plaintiffs served a second set of requests for production on December 10, an interrogatory on FirstEnergy on December 15, and requests for admission on December 17, to which FirstEnergy has responded. Plaintiffs have also informally requested an expanded discovery time period and further email searches and document production. The parties are still negotiating the scope of any further production in response to these requests, but FirstEnergy expects that process to conclude shortly.

WHEREFORE, FirstEnergy respectfully requests an extension to and including January 31, 2022, for FirstEnergy to (A) run additional searches to double check and confirm that its production is complete; (B) complete negotiation of a privilege log protocol with Plaintiffs and accordingly finish FirstEnergy's privilege review and any related production to Plaintiffs; and (C) complete negotiations with Plaintiffs and further address as necessary their later requested additional discovery.

January 18, 2022

Respectfully submitted,

/s/ Ann H. MacDonald

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*Attorneys for Nominal Defendant FirstEnergy Corp.*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 18, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will notify all counsel of record.

/s/ Ann H. MacDonald

*Attorney for Nominal Defendant  
FirstEnergy Corp.*